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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

21-cr-88 (JSR)

5 FRANK APPIEDU, et al.,

6 Defendants.

Arraignment

7 -----x

8 New York, N.Y.  
9 **(remote)**

10 April 1, 2021  
9:00 a.m.

11 Before:

12 HON. JED S. RAKOFF

13 District Judge

14 APPEARANCES

15 AUDREY STRAUSS

16 United States Attorney for the  
Southern District of New York

17 BY: SAGAR K. RAVI

MITZI STEINER

Assistant United States Attorneys

18 LAW OFFICES OF JEFFREY B. EINHORN

19 Attorneys for Defendant Appiedu

20 BY: JEFFREY B. EINHORN

21 BRYAN LAW PLC

Attorneys for Defendant Asante

22 BY: ROBERT V. BRYAN, JR.

23 CAMILLE M. ABATE

Attorney for Defendant Freeman

24 KLINGEMAN CERIMELE, ATTORNEYS

Attorneys for Defendant Aning

25 BY: ERNESTO CERIMELE

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(Remote)

THE COURT: This is Judge Rakoff. Would counsel please identify themselves.

MR. RAVI: Good morning, your Honor. This is AUSA Sagar Ravi for the United States. And also joining me is AUSA Mitzi Steiner.

THE COURT: Good morning.

MR. EINHORN: Good morning, your Honor. Jeffrey Einhorn from the Law Offices of Jeffrey Lichtman for Mr. Appiedu, who is joining me telephonically, joining us.

MR. BRYAN: Good morning, your Honor. Robert Bryan for Fred Asante.

THE COURT: And is Mr. Asante also on the phone?

MR. BRYAN: Yes, your Honor.

DEFENDANT ASANTE: Yes, I'm here.

THE COURT: Very good.

MS. ABATE: Good morning, your Honor. Camille Abate for Calvin Freeman. And Mr. Freeman is also on the phone with me.

THE COURT: Good morning.

MR. CERIMELE: Good morning, Judge. Ernesto Cerimele on behalf of the defendant Lord Aning, who has also joined telephonically.

THE COURT: Very good. All right.

So let me ask each counsel and defendant individually,

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1 starting with Mr. Appiedu and his counsel, have you each  
2 consulted with each other and agreed and consented to having  
3 this proceeding by teleconference?

4 Counsel for Mr. Appiedu?

5 Hello?

6 MR. EINHORN: Oh, I'm sorry. I was on mute.

7 Good morning, your Honor. This is Jeffrey Einhorn.  
8 Yes. I've discussed the matter with Mr. Appiedu, and we have  
9 agreed to proceed telephonically.

10 THE COURT: Mr. Appiedu, do you agree?

11 DEFENDANT APPIEDU: Yes, my Honor, I do agree.

12 THE COURT: Very good.

13 Counsel for Mr. Asante?

14 MR. BRYAN: Robert Bryan for Fred Asante. Mr. Asante  
15 and I have discussed his right to be physically present for  
16 this proceeding, and we have agreed to proceed telephonically.

17 THE COURT: And Mr. Asante, do you agree?

18 DEFENDANT ASANTE: Yes, your Honor, I agree.

19 THE COURT: Very good.

20 Counsel for Mr. Freeman?

21 MS. ABATE: Yes. Good morning again, Judge.  
22 Mr. Freeman and I have discussed this case three times on the  
23 phone and we have discussed his right to be present in the  
24 courtroom, but we have also discussed whether he would consent  
25 to be present telephonically, and he does agree to do this

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1 conference remotely via telephone.

2 THE COURT: Mr. Freeman, do you agree?

3 DEFENDANT FREEMAN: Yes, your Honor.

4 THE COURT: Very good.

5 And counsel for Mr. Aning.

6 MR. CERIMELE: Ernesto Cerimele on behalf of Lord  
7 Aning. Mr. Aning and I have discussed the right to appear in  
8 person and we request that the Court proceed telephonically.

9 THE COURT: And Mr. Aning, do you agree?

10 DEFENDANT ANING: Yes, your Honor.

11 THE COURT: Very good.

12 Let me also note that, in her standing order, Chief  
13 Judge McMahon has specifically found that proceedings of this  
14 sort cannot be conducted in person without seriously  
15 jeopardizing public health and safety. And I find that this  
16 matter cannot be further delayed without serious harm to the  
17 interests of justice, since defendants have a right to prompt  
18 arraignment. And finally, I find that video teleconferencing  
19 is not reasonably available because the Southern District is  
20 presently unable to conduct simultaneous proceedings by  
21 videoconference involving four defendants and their counsel.

22 So let me go back to counsel for Mr. Appiedu. Have  
23 you and your client gone over the indictment in this case?

24 MR. EINHORN: Yes, your Honor. We have reviewed it  
25 together.

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1 THE COURT: And do you want the indictment read or do  
2 you waive the reading?

3 MR. EINHORN: We'll waive a public reading. Thank  
4 you.

5 THE COURT: And do you want a plea of not guilty  
6 entered at this time?

7 MR. EINHORN: We'll enter a plea of not guilty, or  
8 I'll enter it on his behalf.

9 THE COURT: A plea of not guilty will be entered.  
10 And counsel for Mr. Asante, have you gone over the  
11 indictment with your client?

12 MR. BRYAN: Yes, I have, your Honor.

13 THE COURT: And do you waive the public reading?

14 MR. BRYAN: We do waive the formal reading, your  
15 Honor.

16 THE COURT: And do you want a plea of not guilty  
17 entered at this time?

18 MR. BRYAN: That is what we were looking for at this  
19 time, your Honor, yes.

20 THE COURT: A plea of not guilty will be entered.

21 Counsel for Mr. Freeman.

22 MS. ABATE: Yes, Judge.

23 THE COURT: Have you gone over the indictment with  
24 your client?

25 MS. ABATE: Yes, I have gone over the indictment with

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1 my client, both by reading it to him and discussing it with  
2 him.

3 THE COURT: And do you wish to have it read again here  
4 or do you waive the reading?

5 MS. ABATE: I waive its public reading.

6 THE COURT: And do you want a plea of not guilty  
7 entered at this time?

8 MS. ABATE: Yes, your Honor, not guilty. Thank you.

9 THE COURT: A plea of not guilty will be entered.  
10 And finally, counsel for Mr. Aning, have you gone  
11 over --

12 MR. CERIMELE: Yes, your Honor.

13 THE COURT: -- have you gone over the indictment with  
14 your client?

15 MR. CERIMELE: Yes, I have, Judge.

16 THE COURT: And would you like the indictment read, or  
17 do you waive the public reading?

18 MR. CERIMELE: No, your Honor. We will waive a formal  
19 public reading.

20 THE COURT: And do you want a plea of not guilty  
21 entered at this time?

22 MR. CERIMELE: Yes, your Honor, we would like a plea  
23 of not guilty entered.

24 THE COURT: A plea of not guilty will be entered.

25 OK. How long does the government want for the

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1 completion of any discovery, including the provision of any  
2 known *Brady* material?

3 MR. RAVI: Your Honor, this is AUSA Sagar Ravi. The  
4 government was able to produce a bulk majority of the discovery  
5 to three out of the four defendants based on the timing of when  
6 we received hard drives for them. Those productions took place  
7 over the past week. Assuming that we will be able to get the  
8 hard drive from the fourth defendant, the government believes  
9 we should be in a position to complete production of discovery  
10 by tomorrow, April 2nd.

11 THE COURT: All right. Very good.

12 MR. RAVI: I will note that there is -- we are still  
13 attempting to get into a couple of phones that were seized from  
14 Mr. Asante, and as soon as we're able to do that, assuming we  
15 are, we will then produce that as soon as we have any discovery  
16 with respect to those phones.

17 THE COURT: Very good. How long does defense counsel  
18 want for the making of any motions?

19 MS. ABATE: Your Honor, this is Camille Abate for  
20 Mr. Freeman. As I understand it -- and, again, I have not yet  
21 seen the discovery -- that this is a very document-heavy case  
22 with a number of bank records and emails and other documents,  
23 and I am currently going to be on trial in front of your Honor  
24 as of April 14th, and I have been working on that. So I would  
25 request that we have two months to review, and maybe have a

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1 status conference at the end of two months to see whether or  
2 not the documents are so voluminous that we would need more  
3 time to be able to determine if motions are necessary and if so  
4 what types of motions.

5 THE COURT: Well, that is not acceptable to the Court.  
6 That is much too slow to comply with the spirit of the Speedy  
7 Trial Act. I am cognizant that you will be on trial before me  
8 starting April 14th, and I express my condolences, but that  
9 trial will probably be over in two weeks. So you should be  
10 able to turn to this by the beginning of May. So I see, even  
11 given the volume, I see no reason why we can't require all  
12 motions to be filed by May 24th. That's almost the 60 days you  
13 asked for. I'm not buying a pig in a poke by having that a  
14 status conference. So unless anyone else wants to be heard,  
15 all defense motions must be filed by May 24th.

16 MS. ABATE: Your Honor, this is Camille Abate again.  
17 I take it that if it turns out that the documents are more  
18 voluminous, that you would be open to a request for an  
19 extension of time at some point in May?

20 THE COURT: The answer to that --

21 MS. ABATE: I just don't know. I just don't know.

22 THE COURT: Of course I am always open in that I never  
23 close the door. But you should proceed on the assumption that  
24 in my court deadlines are usually adhered to. And it does not  
25 sound to me that this is such a document-heavy case that you



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1 can't master the documents and discuss them with your client  
2 in, in effect, the three and a half weeks I'm giving you after  
3 the conclusion of the trial before me. And of course everyone  
4 else is going to have even more time because they're not on  
5 trial.

6 So the answer is, yes, if it is truly something that  
7 you can make a very strong showing to adjourn that date, I  
8 never close the door. But you should proceed on the assumption  
9 that the door is only open a small crack.

10 MR. RAVI: Your Honor, this is AUSA Sagar Ravi. Would  
11 it be helpful for the Court to provide kind of a bit of  
12 overview of the size of the discovery?

13 THE COURT: Sure.

14 MR. RAVI: The discovery falls into kind of two  
15 groups. The first set is documents and other types of  
16 discovery. It consists of approximately 50 gigabytes of  
17 material, consisting of, you know, bank records for dozens of  
18 accounts that were seized approximately \$50 million over the  
19 past four years, transactional data relating to bulk food and  
20 car shipments that were involved in laundering fraud proceeds,  
21 business records relating to the defendants' companies, search  
22 warrants relating to a few email accounts, search warrant  
23 returns from searches of at least three premises that were done  
24 in connection with arrests, as well as documents from --  
25 provided by fraud victims and the postarrest interviews of

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1 three of the defendants.

2 The second group -- the second kind of category of  
3 discovery are the phone dumps of three of the defendants whose  
4 we've have been able to extract, and those total approximately  
5 150 gigabytes.

6 THE COURT: So it seems to me that, in cases like  
7 this, defense counsel should feel free to call up the  
8 government and say, "Without prejudice, and not in a binding  
9 way, but can you point me to which of those documents and other  
10 evidence particularly pertains to my client? You know, I'm not  
11 holding this to you. There are may be other stuff. I know I  
12 have to review it all. But can you give me a heads up as to  
13 what particularly pertains to my particular client?" And then  
14 the government responds, "Absolutely, and here it is, and it's  
15 items 45, 233, and so forth." So I very much encourage both  
16 sides to do that and to do so promptly.

17 MR. RAVI: And, your Honor, I'll just -- this is AUSA  
18 Sagar Ravi. I'll just note that with respect to the kind of  
19 voluminous bank records which I think are going to be, they are  
20 certainly a big part of this case, those have been organized  
21 already by defendant.

22 THE COURT: All right. So all motions to be filed by  
23 May 24th, and we will have further conference tentatively by  
24 telephone if everyone consents, but it may be in person if  
25 there's not consent or if the situation has changed.

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1 Linda, let's look at May 26.

2 THE CLERK: Checking. Wednesday, May 26, you have an  
3 argument potentially but not till 5 o'clock. It's only if  
4 necessary.

5 THE COURT: OK. So let's put this on for 11 a.m. on  
6 May 26, and at that time, if motions have been made that can be  
7 dealt with through oral argument, they will be. If they  
8 require further briefing from the government or anyone else,  
9 we'll set that schedule then. And in any event we'll set the  
10 trial date at that time.

11 So pursuant to Section 3161 of Title 18, I will  
12 exclude from calculations under the Speedy Trial Act all time  
13 between now and May 26. I find this necessary in view of the  
14 discovery and the preparation of any motions, and that for  
15 those and other reasons, the interests of justice in excluding  
16 such time substantially outweighs the interests of the public  
17 and defendants in a speedy trial.

18 Anything else we need to take up today?

19 MR. RAVI: This is AUSA Ravi. Nothing else from the  
20 government.

21 THE COURT: Counsel for Mr. Appiedu?

22 MR. EINHORN: Your Honor, just one thing to be quick  
23 here, just so I have the dates correct. The motions are due  
24 May 24th and we have a conference on the 26th?

25 THE COURT: Correct, at 11 a.m.

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1 MR. EINHORN: OK. Nothing for Mr. Appiedu. Thank  
2 you, Judge.

3 THE COURT: Counsel for Mr. Asante.

4 MR. BRYAN: Robert Bryan for Fred Asante. Nothing  
5 further for Mr. Asante, your Honor.

6 THE COURT: Thank you.

7 Counsel for Mr. Freeman.

8 MS. ABATE: Nothing further, your Honor.

9 THE COURT: And counsel for Mr. Aning.

10 MR. CERIMELE: Nothing further, Judge.

11 THE COURT: Very good. Thanks so much. Bye-bye.

12 (Adjourned)